

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

YOUNGLOVE CONSTRUCTION, LLC  
2015 East Seventh Street  
P.O. Box 8800  
Sioux City, IA 51102,

CASE NO.

JUDGE

Plaintiff,

vs.

PSD DEVELOPMENT, LLC  
c/o Its Statutory Agent  
Paul Kalmbach  
7148 State Highway 199  
Upper Sandusky, OH 43351

**COMPLAINT**  
**(JURY DEMAND ENDORSED**  
**HEREON)**

and

AG CREDIT AGRICULTURAL CREDIT  
ASSOCIATION  
610 West Lytle Street  
Fostoria, OH 44830

and

THE STATE OF OHIO DEPARTMENT  
OF JOB AND FAMILY SERVICES  
30 East Broad Street, 32<sup>nd</sup> Floor  
Columbus, OH 43215

and

THE WYANDOT COUNTY  
TREASURER CAROLYN FREDERICK  
109 South Sandusky Avenue  
Upper Sandusky, OH 43351,

Defendants.

**COMPLAINT**

Now comes the Plaintiff, Younglove Construction LLC (“Younglove”) by and through the undersigned counsel, and for its Complaint against the Defendants, PSD Development, LLC (“PSD Development”), Ag Credit Agricultural Credit Association (“AgCredit”), The State of Ohio Department of Job and Family Services, and The Wyandot County Treasurer Carolyn Frederick, state as follows:

**PARTIES, JURISDICTION & VENUE**

1. Younglove is an Iowa limited liability company with its principal place of business in Sioux City, Iowa.
2. PSD Development is an Ohio limited liability company with its principal place of business in Upper Sandusky, Ohio.
3. Ag Credit Agricultural Credit Association is a lender doing business in Ohio and based upon the Preliminary Judicial Report (“PJR”) attached hereto as Exhibit A, has or may have an interest in the real estate subject to this lawsuit such that they are a necessary party to these proceedings.
4. The Ohio Department of Job and Family Services is an agency of the State of Ohio and based upon the PJR, has or may have an interest in the real estate subject to this lawsuit such that they are a necessary party to these proceedings.
5. The Wyandot County Treasurer is an agency of Wyandot County charged with the duty to collect real estate property taxes and based upon the PJR, has or may have an interest in the real estate subject to this lawsuit such that they are a necessary party to these proceedings.
6. This Complaint alleges claims for breach of contract, unjust enrichment and foreclosure on a mechanic’s lien with regard to a construction project located in Wyandot

County, Ohio, between parties of diverse citizenship, and involves an amount in controversy in excess of the jurisdictional limit for establishing diversity jurisdiction.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332, in that this dispute involves citizens of different states and the amount in controversy exceeds \$75,000.00.

8. Venue is proper in this Court pursuant to Local Rule 3.8.

**FACTS COMMON TO ALL COUNTS**

9. On or about April 3, 2006, Younglove entered into a written contract with PSD Development for the construction of a Feed Manufacturing Plant to be located at 7148 State Highway 199, Upper Sandusky, Ohio, (the "Project"). A copy of the written contract is attached hereto as Exhibit B.

10. The contract provided that Younglove was to be the design.builder and PSD Development was to be the owner.

11. The base contract price was agreed to be \$8,493,500.00 on a lump sum basis, subject to additions and deductions as provided in the contract documents.

12. The contract provided a start date of not later than August 1, 2006 and a substantial completion date of 15 months after commencement, subject to time extensions as provided in the contract documents. Younglove completed the Project on time. PSD Development has not claimed or assessed any liquidated damages against Younglove on the Project.

13. Substantial completion is defined in the contract to mean "the time when the facility can begin receiving, grinding, batching, pelleting, and loading out of finished feed."

14. Younglove completed the Project on time and PSD Development aka Kalmbach Feeds occupied the Project, opened for business and began receiving, grinding, batching, pelleting, and loading out of finished feed at the Project in 2007.

15. PSD Development held a grand opening for this facility in September 2007.

16. Even though Younglove has completed the Project and PSD Development is occupying and using the facility, Younglove has yet to be paid in full for the Project.

17. On or about December 19, 2007, Younglove performed its last substantive contract work on the Project.

18. On February 8, 2008, within 75 days of the date Younglove last performed work on the Project, Younglove recorded its Mechanic's Lien in the Records of Wyandot County, Ohio, in the amount of \$1,140,306.00, representing the balance due Younglove on the Project. A copy of the recorded Lien is attached hereto as Exhibit C.

19. PSD Development is the owner of the real estate upon which the Project is located, as revealed on the Amended Notice of Commencement attached hereto as Exhibit D, and Michael R. Hetzel, the Sheriff of Wyandot County, personally served an agent of PSD Development, namely Paul Kalmbach, with a copy of the Mechanic's Lien affidavit on February 14, 2008. A copy of the Sheriff's Affidavit of Service is attached hereto as Exhibit E.

20. AgCredit, ACA, 610 W. Lytle Street, Fostoria, OH 44830 is a lending institution that has provided financing for the Project. AgCredit was served with a copy of the Mechanic's Lien on February 15, 2008, by certified U.S. Mail. A copy of the certified mail receipt is attached hereto as Exhibit F.

21. The Ohio Department of Job and Family Services appears to be holding a lien or other claim against all or part of the subject real estate, which claim they should be compelled to prove or waive.

22. To the date of this Complaint, PSD Development owes Younglove the sum of \$1,140,306.00 plus interest, which amounts remain unpaid.

**COUNT ONE**  
**BREACH OF CONTRACT**

23. Plaintiff restates and realleges each of the preceding paragraphs as if fully rewritten herein.

24. Younglove has met all of its obligations under the parties' contract, has achieved substantial completion of the Project, and has turned the Project over to PSD Development, who is currently using the facility to manufacture and sell animal feed.

25. As of the date of this Complaint, the Project is manufacturing feed and its associated products and has not experienced any delays or deficiencies in production or quality as a result of any unresolved issues with Younglove.

26. Although PSD Development and/or its agents of Kalmbach Feeds have claimed there are unresolved issues pertaining to concrete, PSD Development has never rejected Younglove's work, declared the work defective, and has never taken action as required by the contract documents to dispute any of Younglove's pay applications, including those that are past due.

27. Further, PSD Development has from the time of substantial completion, up to the present, continued to use the facility for its intended purpose, without issuing any payment to Younglove for the balance due on the contract.

28. PSD Development is in breach of the parties' contract for failing to pay Younglove the balance due of \$1,140,306.00 plus accrued interest, and Younglove is entitled to recover its damages for breach of contract.

**COUNT TWO**  
**UNJUST ENRICHMENT/QUANTUM MERUIT**

29. Plaintiff restates and realleges each of the preceding paragraphs as if fully rewritten herein.

30. Although Younglove has alleged and fully believes there to be an enforceable express contract between itself and PSD Development, if and to the extent PSD Development should allege or this Court should find that the express contract is not enforceable or is legally deficient, then as an alternative to Count One, Younglove alleges that it is entitled to recover the reasonable value of work performed and improvements provided to PSD Development in *quantum meruit* and to prevent an unjust enrichment to PSD Development.

31. The reasonable value of work performed and services provided to PSD Development, for which payment has not been made, total \$1,140,306.00 together with interest.

**COUNT THREE**  
**FORECLOSURE OF MECHANIC'S LIEN**

32. Plaintiff restates and realleges each of the preceding paragraphs as if fully rewritten herein.

33. On or about February 8, 2008, Younglove recorded a Mechanic's Lien in the Records of Wyandot County in the amount of \$1,140,306.00 against the real estate owned by PSD Development, and commonly known as 7148 State Highway 199, Upper Sandusky, Ohio 43351, as more fully described in the legal description set forth in the PJR attached hereto as Exhibit A.

34. Younglove recorded said lien to secure payment for labor and materials provided pursuant to a contract with PSD Development to improve the subject real estate, as provided in Ohio Rev. Code Chapter 1311. A copy of Younglove's Mechanic's Lien affidavit is attached hereto as Exhibit C, and is herein incorporated by reference.

35. Younglove's Mechanic's Lien is a valid and existing lien on the subject real estate, and Younglove is entitled to have the subject real estate foreclosed, sold, and the proceeds of that sale applied to discharge Younglove's Mechanic's Lien, as provided by law, and ahead of the interests, if any, of Ag Credit Agricultural Credit Association, the State of Ohio and/or Wyandot County.

36. As part of these proceedings, Younglove requests this Court issue orders that are legally necessary to foreclose on the subject real estate, marshal all liens, and determine all interests as they may appear of record, and as necessary to issue a full and final judgment on the claims asserted.

37. To the extent a fund is realized for the benefit of all lien claimants, or the Court otherwise finds appropriate, Younglove requests it be awarded its attorney's fees as provided by Ohio Rev. Code § 1311.16.

WHEREFORE, having fully plead its Complaint, Younglove prays for compensatory damages in the amount of \$1,140,306.00 together with interest, costs, fees, attorneys fees, and such other and further relief as this Court deems just and proper, and an order of foreclosure on Younglove's Mechanic's Lien, along with such costs, fees, attorney's fees, and other relief as this Court deems just and proper.

Respectfully submitted,

/s/ Todd A. Harpst  
Todd A. Harpst (0067309)  
tharpst@ralaw.com  
Roetzel & Andress, LPA  
222 South Main Street  
Akron, OH 44308  
Telephone: 330.376.2700  
Facsimile: 330.376.4577  
ATTORNEY FOR PLAINTIFF  
YOUNGLOVE CONSTRUCTION, LLC

**JURY DEMAND**

Plaintiff hereby demands a trial by jury.

/s/ Todd A. Harpst  
Todd A. Harpst

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